

Senate Bill No. 2001

CHAPTER 228

An act to amend Sections 8452, 9190, 9295, 9380, 9509, and 13313 of, to amend and renumber Section 14226 of, and to repeal and add Sections 9167, 9317, and 9504 of, the Elections Code, relating to elections.

[Approved by Governor August 15, 2002. Filed with Secretary of State August 16, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2001, Committee on Elections and Reapportionment. Election procedures.

Existing law prohibits a county elections official from circulating nomination papers, and a circulator from obtaining signatures within 100 feet of any election booth or polling place.

This bill would provide that this prohibition does not prohibit a county elections official or a deputy county elections official from circulating his or her own nomination papers.

Existing law specifies procedures applicable to the preparation, submittal, and printing of rebuttal arguments to a measure appearing on the ballot of a county, district, or school district election.

This bill would repeal those procedures and replace them with a uniform procedure applicable to rebuttal arguments for county, district, and school district ballot measures.

Existing law requires the elections official administering a county, municipal, district, or school district election, not less than 10 calendar days before specified official election materials are submitted for printing, including the official voter's pamphlet, to make a copy of those election materials available for public examination. It permits any voter, during that 10-calendar-day public examination period, to seek a writ of mandate or an injunction, upon specified grounds, requiring the amendment or deletion of any or all of the materials.

This bill would make clarifying changes in those provisions.

This bill would make related technical changes.

The people of the State of California do enact as follows:

SECTION 1. Section 8452 of the Elections Code is amended to read:

8452. A county elections official or a deputy county elections official may not circulate nomination papers, and circulators shall not obtain signatures within 100 feet of any election booth or polling place. This section does not prohibit a county elections official or a deputy county elections official from circulating his or her own nomination papers.

SEC. 2. Section 9167 of the Elections Code is repealed.

SEC. 3. Section 9167 is added to the Elections Code, to read:

9167. (a) When an argument in favor and an argument against a measure have been selected for publication in the voter information pamphlet the official responsible for conducting the election shall send copies of the argument in favor of the measure to the authors of the argument against the measure and copies of the arguments against the measure to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words, or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal arguments shall be submitted to the elections official conducting the election no later than a date designated by the elections official.

(b) Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut and shall be titled “Rebuttal to Argument in Favor of Measure (or Proposition) _____,” or “Rebuttal to Argument Against Measure (or Proposition) _____,” the blank spaces being filled in only with the letter or number, if any, designating the measure. Words used in the title may not be counted when determining the length of any rebuttal argument.

SEC. 4. Section 9190 of the Elections Code is amended to read:

9190. (a) The county elections official shall make a copy of the materials referred to in Sections 9119, 9120, 9160, 9162, and 9167 available for public examination in the county elections official’s office for a period of 10 calendar days immediately following the deadline for submission of those materials. Any person may obtain a copy of the materials from the county elections official for use outside of the county elections official’s office. The county elections official may charge a fee to any person obtaining a copy of the material. The fee may not exceed the actual cost incurred by the county elections official in providing the copy.

(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the county elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. The writ of mandate or injunction



request shall be filed no later than the end of the 10-calendar-day public examination period.

(2) A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The county elections official shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest. In the case of the county elections official bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

SEC. 5. Section 9295 of the Elections Code is amended to read:

9295. (a) The elections official shall make a copy of the material referred to in Sections 9219, 9220, 9223, 9280, 9281, 9282, and 9285 available for public examination in the elections official's office for a period of 10 calendar days immediately following the filing deadline for submission of those materials. Any person may obtain a copy of the materials from the elections official for use outside of the elections official's office. The elections official may charge a fee to any person obtaining a copy of the material. The fee may not exceed the actual cost incurred by the elections official in providing the copy.

(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-calendar-day public examination period.

(2) A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The elections official shall be named as respondent, and the person or official who authored the material in question shall be named as real parties in interest. In the case of the elections official bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.



SEC. 6. Section 9317 of the Elections Code is repealed.

SEC. 7. Section 9317 is added to the Elections Code, to read:

9317. (a) When an argument in favor and an argument against a measure have been selected for publication in the voter information pamphlet the elections official responsible for conducting the election shall send copies of the argument in favor of the measure to the authors of the argument against the measure and copies of the arguments against the measure to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words, or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal arguments shall be submitted to the elections official conducting the election no later than a date designated by the elections official.

(b) Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut and shall be titled “Rebuttal to Argument in Favor of Measure (or Proposition) _____,” or “Rebuttal to Argument Against Measure (or Proposition) _____,” the blank spaces being filled in only with the letter or number, if any, designating the measure. Words used in the title may not be counted when determining the length of any rebuttal argument.

SEC. 8. Section 9380 of the Elections Code is amended to read:

9380. (a) The elections official shall make a copy of the materials referred to in Sections 9312, 9315, and 9317 available for public examination in his or her office for a period of 10 calendar days immediately following the filing deadline for submission of those documents. Any person may obtain a copy of the materials from the elections official for use outside of the elections official’s office. The elections official may charge a fee to any person obtaining a copy of the material. The fee may not exceed the actual cost incurred by the elections official in providing the copy.

(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held may seek a writ of mandate or an injunction requiring any material to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-calendar-day public examination period.

(2) A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.



(3) The elections official shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest.

SEC. 9. Section 9504 of the Elections Code is repealed.

SEC. 10. Section 9504 is added to the Elections Code, to read:

9504. (a) When an argument in favor and an argument against a measure have been selected for publication in the voter information pamphlet the elections official responsible for conducting the election shall send copies of the argument in favor of the measure to the authors of the argument against the measure and copies of the arguments against the measure to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words, or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal arguments shall be submitted to the elections official conducting the election no later than a date designated by the elections official.

(b) Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut and shall be titled “Rebuttal to Argument in Favor of Measure (or Proposition) _____,” or “Rebuttal to Argument Against Measure (or Proposition) _____,” the blank spaces being filled in only with the letter or number, if any, designating the measure. Words used in the title may not be counted when determining the length of any rebuttal argument.

SEC. 11. Section 9509 of the Elections Code is amended to read:

9509. (a) The elections official shall make a copy of the materials referred to in Sections 9500, 9501, and 9504 available for public examination in his or her office for a period of 10 calendar days immediately following the filing deadline for submission of those documents. Any person may obtain a copy of the materials from the elections official for use outside of the elections official’s office. The elections official may charge a fee to any person obtaining a copy of the material. The fee may not exceed the actual cost incurred by the elections official in providing the copy.

(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-calendar-day public examination period.

(2) A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with this chapter, and that issuance of



the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The elections official shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest.

SEC. 12. Section 13313 of the Elections Code is amended to read:

13313. (a) The elections official shall make a copy of the material referred to in Section 13307 available for public examination in the elections official's office for a period of 10 calendar days immediately following the filing deadline for submission of those documents. Any person may obtain a copy of the candidate's statements from the elections official for use outside of the elections official's office. The elections official may charge a fee to any person obtaining a copy of the material, and the fee may not exceed the actual cost incurred by the elections official in providing the copy.

(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the material in the candidates statements to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-calendar-day public examination period.

(2) A peremptory writ of mandate or an injunction shall issue only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The elections official shall be named as respondent and the candidate who authored the material in question shall be named as the real party in interest. In the case of the elections official bringing the mandamus or injunctive action pursuant to this subdivision, the board of supervisors of the county shall be named as the respondent and the candidate who authored the material in question shall be named as the real party in interest.

SEC. 13. Section 14226 of the Elections Code is amended and renumbered to read:

12288. A place where the primary purpose of the establishment is the sale and dispensation of alcoholic beverages may not be used as a polling place. A polling place may not be connected by a door, window,



or other opening with any place where any alcoholic beverage is sold or dispensed while the polls are open.

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